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ABSTRACT

Intended for New York State school board members, the guide outlines the responsibilities of board members regarding education of handicapped students. An overview of state and federal rules and regulations is followed by sections on the board's role in the following areas: working with the Committee on the Handicapped, identifying children in need of special education, developing individualized education programs, assuring nondiscrimination and access to special education in the least restrictive environment, providing due process of law, and monitoring and training. An evaluation format for assessing local policies in light of state and federal mandates is included. (CL)

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THE ROLE OF A SCHOOL BOARD MEMBER IN THE EDUCATION OF CHILDREN WITH HANDICAPPING CONDITIONS

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12234
September 1981

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Introduction

The Board of Education on which you serve is the decision-making body for the education of children in need of special education.

As a member of the Board of Education, you have the responsibility to ensure that special education programs and related services are suitable, available and accessible to all children with handicapping conditions who reside in your district and who are eligible for special education.

Based upon the recommendations of your Committee on the Handicapped (COH), you must determine whether or not a child is in need of special education and you must provide the appropriate educational programs and services at no cost to the parent. Your resulting decisions on behalf of the child must be made and reviewed annually in keeping with the laws of New York State, the Rules and Regulations of the Commissioner of Education and local school district policy.

The next few pages of this document present an overview of the responsibilities of Boards of Education and the supportive functions of the Committees on the Handicapped as extracted from Article 89 of New York State Education Law and Part 200 of the Rules and Regulations of the Commissioner of Education scheduled to be in effect on July 1, 1982. This overview is followed by text which presents the material in greater detail. The final section provides you with a checklist for assessing the current status of your district's policies, procedures and guidelines which pertain to this area of responsibility.

OVERVIEW

Primary Responsibilities of the Board of Education for the Education of Children with Handicapping Conditions	Supportive Functions of the Committee on the Handicapped In Serving the Board of Education
1. Establish a Committee on the Handicapped to serve at the pleasure of the Board of Education.	1.1 To serve at the pleasure of the Board, performing at least the following functions.
2. In certain districts, determine the number of subcommittees to be appointed upon the recommendation of the Committee on the Handicapped.	2.1 To submit recommendations to the Board of Education regarding the establishment of subcommittees in accordance with subdivision 200.3 of the Commissioner's Regulations.
3. Locate and identify all handicapped children who reside in the district and who are eligible to attend public school each next school year.	3.1 To identify, review and evaluate at least annually the status of each handicapped child and each child thought to be handicapped who resides within the school district; to obtain written parental consent for evaluation for initial placement into special education.
	3.2 To review and evaluate all relevant information pertaining to each handicapped child to ascertain the physical, mental, emotional and cultural-educational factors which may contribute to the handicapping condition and which bear on the child's progress.
4. Maintain a register containing the names of each handicapped child who has been identified, the nature of such child's handicapping condition, and the educational placement, if any, of such child.	4.1 To maintain and update the register of handicapped children residing in the district.
5. Make available a list of public or private agencies and other resources within the county from which a parent or legal guardian may obtain an independent evaluation of the child, as well as low cost legal or other services.	5.1 See 6.1 below
6. Maintain a list of individuals willing to appear on behalf of a child under circumstances where the child's natural parents or guardians are unknown or unavailable or where the child is a ward of the State (surrogate parents). Appoint a surrogate parent where appropriate.	6.1 To provide the parents of the child written prior notice of its recommendation that the Board of Education modify, continue or change the identification, evaluation or educational placement of the child; to advise the parents of their opportunity to address the Committee regarding the pending recommendations; to notify parents of their right to due process and their right to an independent evaluation (see Commissioner's Regulations, Section 200.5 (b) (2vi)).

7. Provide for the preparation of an individualized education program (IEP) for each handicapped pupil.	7.1 To obtain written parental consent prior to the child's entrance into a special education program for the first time; to arrange for the completion of Phase II of the IEP in the agreed setting pending final placement.
8. Select the most reasonable and appropriate special service or program for such children upon receipt of the recommendations of the Committee on the Handicapped or the findings of a hearing officer.	8.1 To recommend appropriate educational programs and placements to the child's parent and the Board of Education; to recommend the continuation, modification or termination of special class or program placements; to furnish the child's parent and the Board of Education with a written evaluation setting forth the reasons for COH recommendations. The recommendation should include: a. Classification of the handicapping condition(s). b. Recommended special education program and needed related services including transportation. c. Specification of the tests or reports upon which the recommendations are based.
9. Provide written notice to the parent of its determination.	
10. Maintain a list of persons from which the district will appoint an impartial hearing officer. Appoint an impartial hearing officer to hear an appeal by the parents or guardians of a child regarding the timeliness or nature of the recommendation of the Committee on the Handicapped or the determinations of the Board.	
11. Provide suitable transportation to and from special classes and programs with the exception of residential facilities for the care and treatment of children with handicapping conditions under the jurisdiction of an agency of the State other than the State Education Department.	11.1 Advise the Board in instances where specialized transportation may be required.
12. Notify the Commissioner if the Board cannot secure appropriate special service or program within the State to meet the needs of the child.	

13. Furnish suitable educational opportunities for handicapped children by rendering special services and programs as determined by the need of the individual child.

13.1 To advise the Board of Education concerning the nature and schedule of reevaluations of handicapped children provided, however, that each child in a special class receives a comprehensive reevaluation by qualified appropriate school personnel at least once every three years.

13.2 To make or to have made periodic (at least annual) evaluations of the adequacy of programs, services and facilities for handicapped children.

13.3 To report at least annually to the Board of Education on the status of programs, services and facilities made available by the school district and to keep such reports on file for inspection by State Education Department officials.

14. Maintain a summary of child data on file in the school district and submit such summaries to the State Education Department as required; report the register of handicapped children to the District Superintendent of the supervisory district in which the district is located as annually required.

14.1 To assist the Board in sending information pertaining to a handicapped child to the child's home district in cases where that district has contracted for the child's education.

15. Prepare plans which describe the nature and scope of special education programs and services available to pupils residing in the district.

16. Adopt written policies which:
    a. Establish practices and procedures to ensure that pupils with handicapping conditions have the opportunity to participate in school district programs, including extracurricular activities.
    b. Establish practices and procedures for the appointment and training of personnel to carry out the functions identified in the regulations.

The Board of Education is responsible for deciding upon the classification of handicapping condition, arranging for the completion of the IEP and determining program placement.

The Committee on the Handicapped is a recommending body. Its recommendations on the identification, classification of handicapping condition, completion of the IEP in the recommended special program setting and final program placement must be forwarded to the Board of Education and the parents by written notice prior to a final Board decision.

No decision to modify, change or continue the classification or educational program placement of a child shall be implemented without the provision of Procedural Due Process unless the Board of Education and the parents or guardians otherwise agree.

A Topical Index of Board of Education Responsibilities with Reference to Federal and State Law and Regulations

Major Board of Education Responsibilities (see pp 2-4)		NYS Law Article 89	Commissioner's Regs. Part 200
1.	Appointing Committee on the Handicapped	§ 4402-1.b.(1)	200.3(a)
2.	Appointing Subcommittees	§ 4402-1.b.(1)(b)	200.3(b)-(c)
3.	Conducting Census	§ 4402.1a	200.2(a)
4.	The Register of Handicapped Children	§ 4402-1.a	200.2a
5.	Register of Independent Evaluation Agencies	§ 4402-3	200.5(b)(2)(vi-vii)
6.	Surrogate Parent Selection		200.5(d)(1-3)
7.	Preparation of the IEP	§ 4402.2a	200.4(c,e)
8.	Determining Programs and Services	§ 4402-2.(a-b)	200.4(d)
9.	Written Notice of Determination	§ 4402-2.b.(2)	200.5(b)(2) 200.1(v)
10.	Appointing Impartial Hearing Officers	§ 4404-1	200.1(o) 200.5(c)(1)
11.	Provisions of Suitable Transportation	§ 4402-4	200.13
12.	Notifying Commissioner re: Out-of-State Placements	§ 4402-2b.(3)	200.6(h)
13.	Providing Special Programs and Services	§ 4402.2.a	200.6
14.	Maintenance of Data and Reporting	§ 4402.1.b.(3)(f)	200.2(a)(2-6) 200.5(e)
15.	Preparation of Program Plans		200.2(c)
16.	Adopt Accessibility & Training Policies		200.2(b)(1,2)

THE ROLE OF THE BOARD IN RELATION TO THE COMMITTEE ON THE HANDICAPPED

State law requires that the Board of Education appoint a Committee on the Handicapped (COH) or contract with another school district or a Board of Cooperative Educational Services (BOCES) for the services of such a Committee. This Committee serves at the pleasure of the appointing Board and its members must include at least a school physician, a school psychologist, a teacher or administrator of special education, and a parent of a handicapped child residing in the school district. The number and qualifications of additional COH members are left to the judgement of the Board. However, it has been determined that appointment of a Board member to serve on the COH would not be appropriate since he or she would then be in a position of developing Committee recommendations which must eventually be presented to the Board of Education for approval or disapproval.

The Board should establish written guidelines for the COH which include:

- Specific professional and personal qualifications of members,
- The number of members,
- Term of appointment which must be renewed annually,
- Method for selection of a chairperson,
- Procedures for appointment, resignation or removal of members,
- The authority delegated to the Committee,
- Ways and means of reporting to the Board of Education.

A Board may, depending upon the size of the district, appoint one or more subcommittees to assist the district Committee in carrying out its responsibilities. The number of subcommittees established should be based upon recommendations of the district Committee on the Handicapped.

The Committee on the Handicapped submits reports and recommendations directly to the Board of Education. This, however, does not prevent the Board from seeking advice from other sources, provided the child's rights to confidentiality and due process of law are preserved.

THE ROLE OF THE BOARD OF EDUCATION IN LOCATING AND IDENTIFYING CHILDREN IN NEED OF SPECIAL EDUCATION

Census and Register

The Board of Education is directly responsible for locating and identifying children who reside in the district, are eligible to attend public school during each next school year, and are in need of special education. The Board is responsible for seeing that a school census is conducted or that other mechanisms are used to maintain accurate information about these children and their educational status. This information must be recorded in a register which is continually updated and maintained by the Committee on the Handicapped. The register may be viewed as the source of required data for various reports. These reports are filed locally and are forwarded to the Superintendent of the local district's supervisory area or to the State Education Department. Boards of Education should ensure that the register is designed and maintained by the Committee in a manner which facilitates the preparation of these reports. An annual census, preschool screening programs and an effective system for referring children to the Committee on the Handicapped are methods which insure that the register is accurate. Whatever method the district uses to collect the data, the register must include information about the number and types of handicapping conditions, the names and ages of handicapped children and their program placement or reasons why they are not receiving an appropriate education.

Referral and Identification of Children in Need of Special Education

A pupil with a handicapping condition is a pupil under the age of 21 who is entitled to attend public schools pursuant to section 3202 of the Education Law and who has been identified through appropriate evaluation and assessment as having an impairment arising from mental, emotional or physical factors, or any combination thereof which interferes with the child's ability to benefit fully from regular education programs.

When a child is thought to have a handicapping condition, he or she should be referred to the COH for evaluation. A number of individuals may make this referral, including:

- The parent or guardian of the child,
- A professional staff member of the district,
- A physician,
- A judicial officer,
- The commissioner or designee of a public agency with responsibility for the welfare, health or education of children, and
- The pupil, if over 18 or an emancipated minor, for purposes of referring oneself.

It is suggested that the district develop and utilize a standard form in accepting referrals since the process of identification and placement begins when a child is referred to the COH. The referral form should include at least the following information:

- Name and address of child and parents,
- Reason for the referral,
- Date of referral,
- Name and position of the person making the referral,
- Dominant language spoken in the home.

It is recommended that the district ascertain the primary language spoken at home during the early stages of communication with the parents. Communication in the primary language of the home is required; knowledge of this also allows the district to make arrangements for translators, interpreters, and written matter which will both facilitate communication with the parents and insure a fair, unbiased evaluation of the child referred.

Evaluation

Upon receipt of a written referral of a child thought to be handicapped, the COH must make a determination of whether the child has a handicapping condition, and if so, make recommendations to the Board for an appropriate placement and services. In order to make its determination, the COH must first conduct a comprehensive evaluation of the child. Such an evaluation includes both a review of information already known about the child and the appraisal of additional information collected through a variety of tests and techniques. Certain of these are required by regulation, while others are used based on the judgement of the district's professional staff.

Notice and Consent

Before initiating evaluation procedures, however, the COH must first notify the parent that it intends to evaluate the child. In its notice to the parent, the COH must describe the evaluation and indicate what it will do with the resulting information. If the proposed evaluation is for a pupil not previously referred to the COH, then the COH must also obtain written parental consent before the evaluation is conducted.

The parent must be given the opportunity to contribute evaluative material for consideration by the Committee and to discuss the Committee's findings and recommendations before they are submitted to the Board for final action. If it becomes known that no parent is available to represent the child, the COH may find that there is need for a surrogate parent. If so, the Board must appoint a surrogate in accordance with subdivision 200.5 (d) of the Regulations of the Commissioner.

In summary, the Board must ensure that parents of children thought to be in need of special education are initially and continually informed of their right to be involved in the decision-making process and of their right to impartial hearings should they disagree with the recommendations of the Committee on the Handicapped or the decision of the Board.

Documentation

The school district may find it helpful to require a checklist documenting the activities involved in the identification process. For example, the checklist may indicate the date the referral was made, when written parental consent was received, when the evaluations were conducted, when the COH met to discuss recommendations with the parents and other essential check points. The person(s) designated to schedule evalution times, arrange meetings, forward information to COH members, parents, and the Committee on the Handicapped itself could use the checklist to help organize the referral, identification and recommendation activities.

Access to Records and Confidentiality

Both State and Federal law contain a number of provisions regulating the confidentiality of, and access to, student records. For example, parents have the right to review all their child's records, to challenge any material in those records, and to receive copies of the records at reasonable cost. A student at least 18 years of age or attending a postsecondary educational institution has similar rights with respect to his or her own records.

In maintaining these records, personally identifiable information that must be held in the strictest confidence includes:

- The name and address of the child and parents,
- Personal identifiers, such as a social security number,
- Other identifiers, such as personal characteristics, which distinguish the child's identity.

It is recommended that the Board review its policies regarding the maintenance of these records, including who has access to them and how the information they contain can be challenged by parents and students.

THE ROLE OF THE BOARD OF EDUCATION IN DEVELOPING INDIVIDUALIZED EDUCATION PROGRAMS

State law requires that an Individualized Education Program (IEP) be developed for each pupil found to be in need of special education. An IEP is a document, written and revised at least annually, that outlines a plan for providing an educational program based on the unique needs of the child. Regulations require a two-phase process leading to the development of a complete IEP and it is the responsibility of the Board to approve and insure the provision of these programs.

Phase I

The first phase begins when the COH determines that a pupil is handicapped and is in need of special education. As noted above, this determination is made following a comprehensive evaluation of the pupil. That same evaluation will form

the bases for the COH recommendations to the Board regarding the pupil's program placement. Both the evaluation of the pupil and the recommendations for program placement constitute a major portion of Phase I of the IEP. The written Phase I will include:

- The classification of the handicapping condition and the recommended program and placement, including the extent to which the pupil will participate in regular education, occupational education, and physical education or adaptive physical education programs,
- A report of the pupil's present level of educational performance,
- The individual needs of the pupil in terms of the academic, social, physical and behavioral status of the pupil,
- The projected date for initiation of special education and related services; the amount of time per day the pupil will receive such services and the projected date of review of the need for such services,
- A description of any specialized equipment or adaptive devices needed for the pupil to benefit from education,
- A list of annual goals consistent with the pupil's needs and abilities,
- A list of those testing modifications to be used consistently by the pupil,
- An indication of the class size in which the pupil should be placed.

The information included in Phase I of the IEP is the substance of the COH's recommendation to the Board of Education and the parents of the pupil. With the agreement of the Board and upon consent of the parent, unless previously obtained, the pupil is provided the recommended programs and services, beginning with the completion of Phase II of the IEP.

Phase II

The second phase of the IEP is developed subsequent to the pupil's placement in a recommended special education program agreed to by both the parent and the Board of Education. The IEP document is completed in a planning conference that involves the child's teacher, the child where appropriate, the parent or guardian, a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education, and other individuals at the discretion of the parent or the district. A person who is familiar with the evaluation procedures used with the child must also be included if the child is entering special education for the first time.

Phase II of the IEP is based on the information and determinations from Phase I activities and, with parental and Board consent, from continuing diagnostic activities in the recommended special education setting. If either the parent or the Board does not authorize the continuation of preplacement evaluation in the recommended setting, the IEP still must be completed prior to final program placement. In any event, the IEP is the basis upon which the Board finally determines the special education program and placement of the child.

The second phase of the IEP process provides the following written information to supplement that provided in the Phase I document:

- A statement of short-term objectives consistent with each of the annual goals for the pupil,
- Appropriate objective criteria and evaluation procedures and schedules for determining, at least on an annual basis, whether the instructional objectives are being achieved.

Annual Review

The process of reviewing the IEP occurs on two levels:

- Evaluating the progress of the child in regard to attainment of instructional objectives, assessed on an on-going basis by teacher(s), parents and other appropriate personnel throughout the year,
- Evaluating the progress of the child in regard to appropriate program placement for next year.

Based on the review, recommendations are developed by the COH with the parent prior to sending them to the Board. This review must be conducted on an annual basis for all children receiving special education.

THE BOARD'S RESPONSIBILITY IN ASSURING NONDISCRIMINATION AND ACCESS TO SPECIAL EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT

High School Diploma for the Handicapped

All students have the right to graduate from high school upon meeting certain minimum standards for attaining a high school diploma. One such standard is successful completion of the Regents Competency Testing Program. This testing program has recognized the special needs of some handicapped children. Therefore, alternative testing techniques, such as the use of an abacus during the math exam or an oral presentation of the reading test for certain pupils, can be authorized by the school principal if these alternatives have been prescribed in the child's IEP.

It has also been recognized that some handicapped children may not be capable of passing the Regents Competency Examinations and, therefore, would never earn a diploma. Currently, only students who, on the basis of comprehensive evaluations, which include individual psychological examinations, are determined to possess general intellectual capacities that fall lower than 1.5 standard deviations below the mean of the general population, cannot profit from regular classroom instruction. These students may be expected to profit from special education programs and may be eligible for a school certificate upon successful completion of an individualized education program.

Clearly, the handicapped child's achievement of a high school diploma or eligibility for a school certificate is dependent upon an appropriate long-term individualized education program which provides for the special learning and

testing needs of the child. The nature of a child's handicap should not be used to presume that the child cannot achieve the minimum competencies and requirements for earning a high school diploma. An objective consideration of the child's potential for achieving either a diploma or a certificate should be given early in the child's intermediate and secondary educational program so that necessary services and remedial activities are provided in a systematic manner.

Least Restrictive Environment

Equal opportunity for the handicapped to participate in regular education and other experiences, without exclusion because of their handicapping condition, is a right protected by law. The intent of the law is to provide participation in the "mainstream" of life to the fullest extent possible for each handicapped person. The Board is responsible for seeing that schools of the district do not discriminate against handicapped children on the basis of their handicap and that the appropriate educational programs are available to them.

The Board must provide for the education of the child with children who are not handicapped unless it can demonstrate that, even with the use of supplementary aids and services, the education of the child in the regular education program environment cannot be satisfactorily achieved. If, to assure satisfactory achievement, the child needs to be placed in a setting other than the regular education setting, the Board must consider the nearness of the alternative setting to the child's home. This is the concept of Least Restrictive Environment.

A policy for educating handicapped children in the Least Restrictive Environment is the Board's control over decisions which might unnecessarily separate the children from their nonhandicapped peers or their homes.

Basis for Providing Special Education

The child's IEP determines his/her most appropriate placement. For example, a residential school placement may be the most appropriate program for one child who is classified as multiply handicapped. For a second child — also multiply handicapped — the appropriate placement might be in an education program within one of the district's own schools. It is important to note that in this example, as in countless actual cases, the classification of the child does not provide a complete picture of his or her educational needs, and accordingly may be only one of the bases upon which a placement decision is made.

Of perhaps greater utility in reaching placement decisions is a set of four criteria directly related to the needs of the individual pupil. These criteria include:

- The level of the pupil's academic or educational achievement or learning rate,
- The level of the pupil's social development,
- The level of the pupil's physical development,
- The management needs of the pupil in the classroom.

The points at which an individual pupil fits within these criteria may be determined through the comprehensive evaluation performed by the COH.

The description of a pupil with respect to these criteria will be of significant assistance to both the COH and the Board in determining the amount of individual attention and class size most appropriate to that pupil. By extension, this will provide a least restrictive environment for that pupil at that time.

Continuum of Services

The range of placement alternatives may be viewed as a continuum of services with the regular classroom at one end and a residential placement at the other. The continuum, therefore, may also be described as a series of placement alternatives which provide increasingly greater individual attention as they approach residential placement.

The continuum of services includes:

A. Regular Program

In this setting, the child receives regular classroom instruction available to all children. Indirect services in the form of consultation to the classroom teacher may be available from instructional specialists, administrators, or other members of the instructional staff. Specific suggestions for certain children may include procedures related to modification of curriculum, individualizing instruction or use of specialized methods or materials. Indirect services may also be provided through inservice training of related, regular and special education professional staff.

B. Regular Class Program with Related Services

While in the regular education program, a pupil with a handicapping condition may receive related services from appropriate specialists based on individual need. The extent of these services may range from regular daily sessions to less frequent contacts depending upon the pupil's Individualized Education Program; however, pupils who are determined to need speech and language services must receive such services at least two periods each week.

C. Resource Room Program

The services in this program are provided directly to the child. They range from itinerant services for specific instruction on a limited basis to maximum involvement in a resource room setting. While the child may be considered educationally handicapped and receiving special education in the resource room, he or she is in the regular classroom and interacts with peers during the majority of the instructional day. Appropriate related services may also be provided. It should be noted that the child may not be in the resource room for more than 50 percent of the school day.

D. Special Class Program Options

1. 1 Teacher: 12 Students

This program is designed for pupils whose special education needs require specialized instruction which can best be accomplished in a self-contained setting for at least 50% of the school day with other pupils having similar special educational needs.

2. 1 Teacher + 1 Paraprofessional: 12 Students

   Given the need for special class instruction, students in this program exhibit behavioral problems which interfere with the instructional process to the extent that an additional adult is needed within the classroom to assist with the management needs of the pupil.

3. 1 Teacher + 1 Paraprofessional: 6 Students

   This special class program provides very individualized instruction. It offers the structure and adult to student ratio necessary for students whose management needs are determined to be highly intensive. The behavior of students in such a program may be characterized as aggressive, self-abusive or extremely withdrawn.

4. 1 Teacher: 12 Students with an additional adult/student ratio of 1:3

   This program provides the intensive adult/student interaction needed by pupils with severe multiple handicaps. The needs of pupils in this program consist primarily of habilitation and treatment.

E. Special Day School Program

This program is similar to a special class placement except that it is in a special school serving only handicapped children. Placement in this setting is based on severity of handicap. These programs may be provided by a school district, BOCES, or an approved private school or agency. In this setting, the child is able to continue to live at home and is transported to and from school on a daily basis. Placement in a private school or agency is conditioned upon prior approval of the Commissioner.

F. Residential Program

The needs of the child in this setting indicate intensive instructional programming which cannot be provided within the instructional day. This program involves the provision of comprehensive services twenty-four hours per day in publicly or privately supported residential settings. Residential placement is conditioned upon approval of the Commissioner.

G. Home or Hospital Instruction

Children provided home instruction are those who are homebound or hospitalized for an extended period of time due to the nature of their handicapping condition.

The Committee on the Handicapped's recommendation and the Board's decision to initiate, change or continue the placement of a child in this continuum of alternative settings may not be implemented without prior notice being given to the parent and, in cases involving pupils entering special education for the first time, parental consent to the provision of special education.

THE ROLE OF THE BOARD OF EDUCATION IN PROVIDING DUE PROCESS OF LAW

The appropriateness of the Board's annual decision to change, modify or continue the provision of special education by placing the child in one of the program settings described above is determined through the involvement of many responsible persons, including the Board itself, in the decision-making process. Boards of Education need to be aware that decisions which place children in more or less restrictive settings cannot be implemented until the children have been provided certain consititutional safeguards. These safeguards are provided by the individual's right to due process of law. It is essential that a Board ensure the control of decisions and actions through due process procedures that are accessible to the parents or guardians of children, the children themselves and to school district officials. Such procedures must be available to prevent inappropriate or irresponsible action by any party to a decision that impacts upon the interests of the child.

Formal Due Process

Due process is a series of procedural safeguards, required by law and established in policy by the educational agency. If individuals are faced with pending decisions or actions which will affect their educational programs, or those of their children, they must have the opportunity to be heard as well as the right to an impartial resolution of any disagreement with the decisions or actions before they are implemented. Due process, as defined in education law and regulation, generally includes the following characteristics:

1. **Written Notice of Proposed Actions**

   Notice must be provided to parents when:

   a. The COH seeks to evaluate a pupil not previously identified as having a handicapping condition.

   b. The COH plans to conduct an annual review or reevaluation of a pupil previously identified as handicapped.

   c. The COH makes its recommendation to the Board of Education after initial evaluation or reevaluation.

   d. The Board of Education acts upon the recommendations of the COH.

   e. An IEP planning conference has been scheduled.

2. **The Right to Provide, Withhold, or Reconsider Consent**

In all cases, consent must be written. Failure to reply to a notice never should be considered consent. Consent must be obtained in the following instances:

   a. Where the COH seeks to evaluate a pupil not previously identified as having a handicapping condition.

   b. Where the Board will provide special education and services to a pupil entering special education for the first time.

3. The Right of Full Access to Relevant School Records

The school district must provide the parent — or child if he or she is over 18 — with access to all records relevant to the child. Further, copies should be made available at a reasonable cost, and the district should provide an appropriate person to interpret reports, evaluations, etc. for the parent, if so requested.

4. The Right to an Independent Evaluation

If the parent disagrees with the result of the COH's evaluation, he or she has the right to seek an independent evaluation by a person of the parent's choice. This independent evaluation is conducted at public expense unless the district initiates a formal impartial hearing and the hearing officer finds that the initial evaluation was appropriate.

5. The Right to a Hearing Prior to Final Action

This right carries with it several subsidiary rights, including:

a. The right to a hearing conducted by an impartial hearing officer,

b. The right to counsel at the hearing (choice of appropriate counsel is the parents' - counsel need not be an attorney),

c. The right to present evidence,

d. The right to compel the attendance of witnesses,

e. The right to cross-examine witnesses,

f. The right to have the hearing open or closed to the public.

Resolution of Disputes - Informal Discussion

Conflicts between parents and school districts usually arise in four areas: evaluation, identification, recommendation and placement. The district should handle a disagreement about what is being done or should be done in the child's best interest, first on an informal basis, through discussions and meetings between parents and school personnel. Such discussion may allow for parties to resolve their differences and avoid costly due process procedures.

Who May Request a Hearing?

The Board of Education:

- If the parent continues to withhold consent for evaluation for a period of 30 days after the COH notification of referral and request for parental consent for evaluation, then, unless the parent and the COH otherwise agree that the evaluation is not warranted, the Board must initiate a hearing to determine whether there is sufficient basis for evaluating the pupil.

- When a parent requests that an independent evaluation be at public expense, and the local school district believes that the current evaluation is adequate and that an independent evaluation is unnecessary and, therefore, should not be at public expense, the Board must initiate a hearing to resolve the issue.

- If the parent does not consent to the initial provision of special education within 30 days after the date of notification of the COH recommendation to the Board or the BOE's notification to the parent, the Board must initiate a hearing to resolve the issue.

The Parent or Legal Guardian:

- If the COH fails to make a recommendation within 30 days from the date that a pupil has been referred to the COH for evaluation and recommendation, the parent or legal guardian may request a hearing.

- Within 10 days after receipt of a notice of recommendations of the COH to the Board, the parent or legal guardian may request a hearing to challenge these recommendations.

- Within 10 days after receipt of the notification of the BOE's determination, the parent or legal guardian may request a hearing to challenge the determination.

- If the Board of Education fails to act within 30 days from the date that it receives the recommendations from the COH, the parent or legal guardian may request a hearing.

- When a school district refuses to pay for an independent evaluation and does not initiate an impartial hearing to resolve the issue, the parent or legal guardian may request a hearing.

Appointing Impartial Hearing Officers

It is the Board's responsibility to appoint an impartial hearing officer to conduct any hearing requested in writing by a parent or guardian regarding the recommendations of the Committee on the Handicapped or the final determinations. The Board must maintain a list of individuals from which to choose a hearing officer.

The Board must also ensure that interpreters are provided the parties to the hearing to accommodate those who may be deaf or do not understand the language spoken at the hearing.

The appointed hearing officer should know the law and regulations and be knowledgeable and competent in arranging for, conducting and concluding the hearing. These competencies include an ability to analyze and evaluate testimony and evidence as well as the writing of clear and concise decisions. A training program has been developed to assist individuals to attain these competencies. Although the program would be helpful to any current or potential hearing officer, it is not required that Boards choose hearing officers from those who have completed the program.

The impartial hearing officer must be prepared to render a decision based solely upon the findings of fact entered into the record of the proceeding and mail a copy of the decision to the parents and to the Board of Education not later than 45 calendar days from the date that the Board receives the written request for the hearing. The decision must set forth the reasons and factual basis for the determination and include a statement advising the parents and the Board of their

right to obtain a review of the decision by the Commissioner as provided by State and Federal law. A copy of each impartial hearing officer's decision must be mailed by the Board within five (5) days of its receipt to the State Education Department, Office for Education of Children with Handicapping Conditions.

THE BOARD'S ROLE IN MONITORING AND TRAINING

The Board of Education has important responsibilities for monitoring and training at the district level. Each school district must, by regulation, adopt policies establishing procedures which:

- Ensure that handicapped pupils have the opportunity to participate in school district programs,
- Provide for appointment and training of the personnel who carry out functions relating to the education of the handicapped.

As the body with ultimate responsibility for local education programs, the Board should monitor implementation of these and other policies.

The Office for Education of Children with Handicapping Conditions assists Boards of Education in carrying out the monitoring function. Regional offices have been established and are located throughout the State. These offices are staffed by Coordinators and Regional Associates whose primary responsibilities are to monitor local school districts, Boards of Cooperative Educational Services and programs in the private or nonpublic sector to ensure compliance with State and Federal regulations governing the education of children with handicapping conditions. The Regional Associates are valuable resources to review and advise local school districts. A map locating the Regional Offices by region served, their mailing addresses and telephone numbers, may be found on the back cover.

To carry out its responsibility for training, the Board should provide for the inservice training needs of staff to ensure that they are appropriately prepared to carry out their professional responsibilities. Many individuals who now have involvement with educational programs for the handicapped have not necessarily received training in this area during their professional preparation. Therefore, the Board should determine what inservice training the staff needs to carry out their responsibilities in educating the handicapped, and provide the necessary inservice to meet these needs. The Office for Education of Children with Handicapping Conditions can assist the Board in providing this training through training programs offered by the Bureau of Program Development. The Bureau coordinates a network of Special Education Training and Resource Centers (SETRC) located throughout the State. This network assists the Bureau in carrying out training objectives of the State Plan for the education of children with handicapping conditions. The Bureau also conducts many direct training activities such as training for Committees on the Handicapped and regular education administrators. A more complete description of the SETRC network is included in the back of this manual.

It is important for the Board not to overlook its responsibilities for monitoring and training. While the resources of the State Education Department are available to assist the Board, the Board must recognize that it has the major responsibility for this area.

AN INSTRUMENT TO ASSESS THE NEED FOR LOCAL SCHOOL DISTRICT BOARD OF EDUCATION AND ADMINISTRATIVE GUIDELINES RELATED TO THE EDUCATION OF CHILDREN WITH HANDICAPPING CONDITIONS

The Rules and Regulations of the Commissioner, as they reflect State and Federal Law, set forth State policy regarding the identification, placement, instruction and review of each child thought to be handicapped. Outlined below is a checklist of critical areas to be addressed in any assessment of a local school district's policies and procedures in light of these State and Federal mandates.

Local District Guidelines should address:	Current District Guidelines need development	Current District Guidelines are satisfactory
Organization of the COH:		
a. Appointment of a COH to include the four mandated members.	a. _____	a. _____
b. Appointment of additional members to the COH.	b. _____	b. _____
c. Conditions under which the COH will act.	c. _____	c. _____
d. Appointment of subcommittees.	d. _____	d. _____
Referral and Preplacement Evaluation:		
e. The process and form for referral of all children thought to be handicapped for timely consideration by the Committee on the Handicapped.	e. _____	e. _____
f. The accessibility and confidentiality of student records.	f. _____	f. _____
g. The process for conducting preplacement evaluations, including the form for prior notification and written parental consent.	g. _____	g. _____
h. The process for initiating and conducting informal meetings and hearings by either the parent or school district in the event that there is disagreement regarding preplacement evaluation activities.	h. _____	h. _____
The Development of COH Recommendations and IEP, Phase I:		
i. The inclusion of the parents in the development of Committee recommendations on the classification and placement of a child.	i. _____	i. _____
j. The format of formal recommendations forwarded to the Board of Education and of the IEP, Phase I.	j. _____	j. _____
k. The provision of due process to parents in the event of objection to COH recommendations.	k. _____	k. _____

	need development	are satisfactory
Board of Education Determination:		
l. The formulation and adoption of Board resolutions based on COH recommendations in keeping with the needs of individual children and their rights to confidentiality.	l. _____	l. _____
m. The process and form for notifying parents of Board of Education determinations, requesting parental consent to initial placement and informing parents of due process rights and responsibilities.	m. _____	m. _____
n. The process by which Board determinations are implemented by school district administration, including the district's rights and responsibilities in due process should parental consent to placement be withheld.	n. _____	n. _____
Planning Conferences and the Development of Phase II of the IEP:		
o. The roles and responsibilities of school district officials in initiating and coordinating a planning conference for the preparation of an IEP.	o. _____	o. _____
p. The roles and responsibilities of instructional staff in the development of the IEP (special education teacher, regular class teacher and related service providers).	p. _____	p. _____
q. The process for forwarding information developed by the COH and considered by the Board of Education to the individuals to be involved in the planning conference, conducted as a result of both in-district and out-of-district program placements.	q. _____	q. _____
r. The inclusion of parents and other individuals at the discretion of the parent in the planning conference, including the opportunity to prepare for the planning conference.	r. _____	r. _____
s. The parent's right to due process procedures in the event of disagreement with the IEP developed in the planning conference.	s. _____	s. _____
t. The procedures for forwarding completed IEP documents to all appropriate persons so as to ensure that all enrolled children who are educationally handicapped have an IEP on file in the district of residence.	t. _____	t. _____
IEP Implementation and Review:		
u. The way in which instruction as prescribed in the IEP is supervised or monitored by the school district.	u. _____	u. _____
v. The frequency and form of reporting student progress in achieving objectives of the IEP, including indications of who is to receive such reports.	v. _____	v. _____
w. The frequency and reporting format of individual student reviews (the COH must review the status of each child at least annually and report its findings to the Board of Education).	w. _____	w. _____
x. The role of the planning conference in the review of the IEP process and the development of updated IEP's following Board determinations to continue, change or modify program placements.	x. _____	x. _____
y. Time schedules for COH meetings and IEP Planning Conferences.	y. _____	y. _____

SPECIAL EDUCATION TRAINING AND RESOURCE CENTERS (SETRC)

The education of children with handicapping conditions continues to be a challenging field. Changes frequently occur in the laws and regulations enacted by the Federal and State government. New research is continually being designed and undertaken. Methods and materials of a specialized nature are produced and marketed.

A variety of personnel from the education community, human and social services agencies and parents are required to work cooperatively to effectively help children with handicapping conditions. Increasing numbers of special children are being integrated into more normal settings, causing teachers and administrators to assume new roles and responsibilities. Parents are becoming participatory planners in the development of individual education plans for their children. The need for current information, appropriate resources and relevant training is great. To meet this need, the State Education Department, Office for Education of Children with Handicapping Conditions (OECHC), administers and supports a network of 52 State Training Centers. The centers are called Special Education Training and Resource Centers (SETRC). They are located in the Boards of Cooperative Educational Services (BOCES) throughout the State, in large city school districts, and at one State University. They are the local contact points for obtaining resources, information and training related to the education of the handicapped. Each center disseminates publications, information about training and other services available from the OECHC, Division of Development Support Services, Bureau of Program Development. The following material is designed to help you to use the services available through the State Training Network.

Who may use the centers?

- o Special education teachers
- o Regular education teachers
- o Occupational educators
- o Administrators
- o Parents of school-age and preschool handicapped children
- o Paraprofessionals
- o Board of Education members
- o Committee on the Handicapped members
- o Representatives of other public, private and voluntary agencies and organizations which serve children with handicapping conditions
- o College and university personnel
- o Pupil personnel staffs
- o Students

What training is available through the centers?

Needs assessment activities are used to determine the training which is made available on a broad variety of topics including:

- o Parent participation in the I.E.P. Planning Conference
- o Education in the Least Restrictive Environment
- o Roles and Responsibilities of Committees on the Handicapped
- o Roles and Responsibilities of Boards of Education
- o Assessment Techniques
- o Individualized Education Programs
- o Due Process
- o Laws and Regulations
- o Instructional Materials, Media and Technology
- o Placement Procedures
- o Behavior Management
- o Handicapping Conditions

Training is available for:

- o Special Education Teachers
- o Regular Education Teachers
- o Occupational Education Personnel
- o Boards of Education
- o Administrators
- o Psychologists
- o Parents of Handicapped Children
- o Committee on the Handicapped members
- o Physical Therapists
- o Speech Therapists
- o Any others connected with the education of handicapped children

What information is available through the centers?

- o Information about the current laws and regulations which affect special education
- o Information on current publications and periodicals related to the education of children with handicapping conditions
- o A collection of professional reference materials which are available on loan
- o Information about statewide and local assessments of training needs
- o Information about special education and related services which are available to the handicapped within the region
- o Information about a collection of more than 300 films on handicapped children which may be borrowed from the State Education Department
- o Information about the latest and most effective instructional materials and media which may be used or adapted for use with handicapped children
- o Information on the IEP process in New York State
- o Information on required screening procedures
- o Information on requirements for graduation and diplomas
- o Testing modifications

What personnel is available in the centers to provide training and information?

Each center has at least one Training Specialist who is an experienced special education teacher/administrator. Many centers are staffed by two or more trainers.

Do center staff members respond to individual requests for information, consultation and assistance?

Yes. Trainers may be contacted to consult with educators or parents on a request basis. In some centers, trainers may be able to visit classrooms to offer advice and information.

What State-level resources are available to the centers?

- o Training for the specialists on materials and methods which may be duplicated locally
- o Training designed to improve skills in conducting workshops
- o Copies of training manuals which are developed/purchased by the Office for Education of Children with Handicapping Conditions
- o State Education Department newsletters, guidelines, handbooks, manuals, fliers
- o Access to data on statewide assessments of training needs
- o Consultation and technical assistance from State Education Department personnel
- o Funding of center activities
- o State-provided training to specific populations working with the handicapped

Where are the centers located?

A complete list of the addresses and telephone numbers of the centers follows. The map on the back page shows the location of the centers.

How can I find out more about the State Training Network?

Contact:

New York State Education Department
Bureau of Program Development
Room 1069, Education Building Annex
Albany, New York 12234
(518) 474-8917

Albany-Schenectady-Schoharie BOCES SETRC
Maywood Elementary School
1979 Central Avenue
Albany, NY 12205
(518) 456-9069

Allegany County BOCES SETRC
c/o Learning Diagnostic Center
33 Willetts Avenue
Belmont, NY 14813
(716) 268-7652

Broome-Delaware-Tioga BOCES SETRC
P.O. Box 1450
Upper Glenwood Road
Binghamton, NY 13902
(607) 729-9301 Ext. 362

Buffalo City SETRC
School #75
99 Monroe Street
Buffalo, NY 14206
(716) 856-5595

Cattaraugus-Erie-Wyoming BOCES SETRC
Windfall Road
Olean, NY 14760
(716) 372-8293

Cayuga County BOCES SETRC
234 South Street Road
Auburn, NY 13021
(315) 253-0361 Ext. 52

Chautauqua County BOCES SETRC
9520 Fredonia Stockton Road
Fredonia, NY 14063
(716) 672-4371 Ext. 278

Clinton-Essex-Warren-Washington BOCES SETRC
Box 455
Plattsburgh, NY 12901
(518) 561-0100

Cortland-Madison BOCES SETRC
McEvoy Education Center
Clinton Avenue Extension
Cortland, NY 13045
(607) 753-9301

SUNY at Binghamton SETRC
Delaware-Chenango BOCES Service Area
Vestal Parkway
Binghamton, NY 13901
(607) 798-6681

Dutchess County BOCES SETRC
RD #1, Salt Point Turnpike
Poughkeepsie, NY 12601
(914) 471-9200 Ext. 42

Erie #1 BOCES SETRC
2 Pleasant Avenue, West
Lancaster, NY 14086
(716) 686-2019 or
(716) 686-2017

Erie #2-Cattaraugus BOCES SETRC
4071 Hardt Road
Eden, NY 14057
(716) 992-3413

Franklin-Essex-Hamilton BOCES SETRC
Box 28
North Franklin Education Center
Malone, NY 12953
(518) 483-1294

Genesee-Wyoming BOCES SETRC
8250 State Street Road
Batavia, NY 14020
(716) 343-1400

Greene-Delaware-Schoharie-Otsego BOCES SETRC
Rexmere Park
Stamford, NY 12167
(607) 652-7531 Ext. 53

Hamilton-Fulton-Montgomery BOCES SETRC
Fulton-Montgomery Community College
Route 67
Johnstown, NY 12095
(518) 762-7754

Herkimer-Fulton-Hamilton-Otsego BOCES SETRC
Gros Boulevard
Herkimer, NY 13350
(315) 866-6040 Ext. 282

Jefferson-Lewis-Hamilton-Herkimer-Oneida BOCES SETRC
Case Junior High School - Room 117
Washington Street
Watertown, NY 13601
(315) 788-0400

Livingston-Steuben-Wyoming BOCES SETRC
Holcomb School
Geneseo, NY 14454
(716) 243-5470

Madison-Oneida BOCES SETRC
Spring Road
Verona, NY 13478
(315) 363-8000

Monroe #1 BOCES SETRC
705 Plank Road
Penfield, NY 14526
(716) 671-8614

Monroe #2 Orleans BOCES SETRC
3599 Big Ridge Road
Spencerport, NY 14559
(716) 352-2443

Nassau County BOCES SETRC
Rosemary Kennedy Center
2850 North Jerusalem Road
Wantagh, New York 11793
(516) 781-4044 Ext. 270

New York City SETRC's:

New York City SETRC
400 First Avenue - 7th Floor
New York, NY 10010
(212) 686-6120

4011 Monticello Avenue
P.S. 68
Bronx, NY 10466
(212) 325-7231

990 DeKalb Avenue
Brooklyn, NY 11221
(212) 443-6083

Edward R. Murrow High School
1600 Avenue L
Brooklyn, NY 11230
(212) 258-0188

Kissena School
65-11 155th Street
Flushing, NY 11367
(212) 359-7107

Occupational Training Center
155 Thompkins Avenue
Staten Island, NY 10301
(212) 273-7800

Oneida-Madison-Herkimer
BOCES SETRC
Box 70 - Middle Settlement Road
New Hartford, NY 13413
(315) 792-4605, 792-4614

Onondaga-Madison BOCES SETRC
6820 Thompson Road
Syracuse, NY 13211
(315) 437-0248

Ontario-Seneca-Yates-
Cayuga-Wayne BOCES SETRC
Finger Lakes Educational Center
3501 County Route 20
Stanley, NY 14561
(716) 526-6042

Orange-Ulster BOCES SETRC
Gibson Road
Goshen, NY 10924
(914) 294-5431 Ext. 224

Orleans-Niagara BOCES SETRC
4124 Saunders Settlement Road
Sanborn, NY 14132
(716) 731-4145

Oswego BOCES SETRC
P.O. Box 488 County Route 64
Mexico, NY 13114
(315) 963-3094

Rensselaer-Columbia-Greene
BOCES SETRC
1562 Columbia Turnpike,
Castleton, NY 12033
(518) 477-8741

City of Rochester SETRC
Central Administrative Offices
131 Broad Street West
Rochester, NY 14608
(716) 325-4560 Ext. 2710

Rockland County BOCES SETRC
61 Parrott Road
West Nyack, NY 10994
(914) 623-3828

St. Lawrence BOCES SETRC
Potsdam C.S. Red Annex
Leroy Street
Potsdam, NY 13676
(315) 265-8116

Saratoga-Warren BOCES SETRC
Meyers Education Center
Henning Road
Saratoga Springs, NY 12866
(518) 584- 3239

Schuyler-Chemung-Tioga
BOCES SETRC
431 Philo Road
Elmira, NY 14903
(607) 739-3581 Ext. 223

Steuben-Allegany BOCES SETRC
6666 Babcock Hollow Road
Bath, NY 14810
(Mailing Address:
Wildwood Campus-Bldg. #3
North Main Street Ext.
Hornell, NY 14843)
(607) 324-5893

Suffolk #2 BOCES SETRC
Greene Avenue School
Greene Avenue
Sayville, NY 11782
(516) 567-1121

Sullivan BOCES SETRC
Ferndale Loomis Road
Box 391
Liberty, NY 12754
(914) 292-7500

Syracuse City SETRC
Percy Hughes School
345 Jamesville Avenue
Syracuse, NY 13210
(315) 425-4685

Tompkins-Seneca-Tioga
BOCES SETRC
555 South Warren Road
Ithaca, NY 14850
(607) 257-1551 Ext. 276

Ulster County BOCES SETRC
175 Route 32 North
New Paltz, NY 12561
(914) 255-1402

Washington-Warren-Hamilton-Essex
BOCES SETRC
Special Education Building
Dix Avenue
Hudson Falls, NY 12839
(518) 793-7721

Westchester-Putnam BOCES #1
SETRC
Pinesbridge Road
Yorktown Heights, NY 10598
(914) 245-1050 Ext. 245

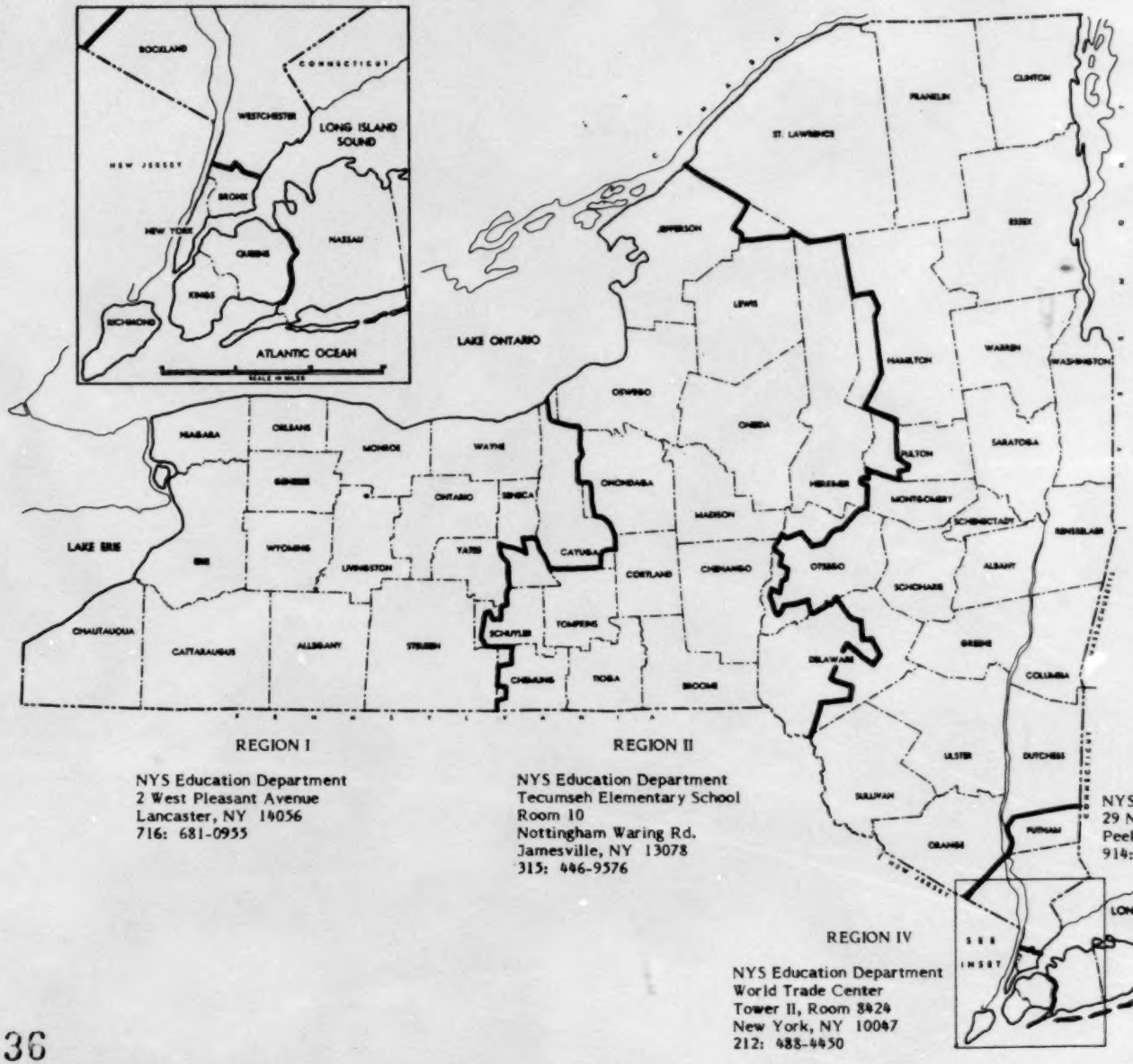
Westchester BOCES #2 SETRC
Learning Resource Center
Concord Road
Ardsley, NY 10502
(914) 693-7576

Yonkers City SETRC
School #32 Dexter Road
Yonkers, NY 10701
(914) 963-0592

Coordinating Office:

New York State Education Department
Office for Education of Children with
Handicapping Conditions
Division of Development Support
Services
Bureau of Program Development
Albany, NY 12234
(518) 474-8917 or 2251

OECHC REGIONAL OFFICES AND AREAS SERVED



REGION I

NYS Education Department
2 West Pleasant Avenue
Lancaster, NY 14056
716: 681-0955

REGION II

NYS Education Department
Tecumseh Elementary School
Room 10
Nottingham Waring Rd.
Jamesville, NY 13078
315: 446-9576

REGION III

NYS Education Department
9B74 CEC
Albany, NY 12230
518: 474-5356

REGION IV

NYS Education Department
World Trade Center
Tower II, Room 8424
New York, NY 10047
212: 488-4450

REGION V

NYS Education Department
Salisbury Center
Valentines Road & The Plain Road
Westbury, NY 11590
516: 997-8700

REGION VI

NYS Education Department
29 North Division Avenue
Peekskill, NY 10566
914: 739-7822